

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION  
SPECIAL ORDER BY CONSENT  
ISSUED TO  
TOWN OF WARSAW  
Permit No. VA0026891**

**SECTION A: Purpose**

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and Town of Warsaw, for the purpose of resolving certain violations of environmental law and regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Special Order.
6. “Town” means the Town of Warsaw located in Richmond County Virginia.

7. “Facility” means the Town’s wastewater treatment plant located in Richmond County, Virginia.
8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “Permit” means VPDES Permit No. VA0026891, which became effective March 19, 1999, and expires March 19, 2004.
10. “O&M” means operations and maintenance.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Town of Warsaw owns and operates the Facility in Richmond County, Virginia. The Facility is the subject of VPDES Permit No. VA0026891, which allows Town of Warsaw to discharge treated wastewater into an unnamed tributary of Totuskey Creek in strict compliance with terms, limitations and requirements outlined in the Permit.
2. On July 20, 2002, the Town of Warsaw had an unauthorized discharge from pump station #2 of 150,000 gallons of sewage that entered an unnamed tributary of Jugg’s Creek. A review of the Town’s file indicates that pump station #2 was placed into service without a certificate to operate from the Department. A warning letter was issued to the Town on August 7, 2002. The discharge continued through the weekend when no one responded to pump station overflow alarms.
3. The Permit has a compliance schedule for compliance with copper and zinc effluent limits. Compliance with the permit limitations was to be achieved by March 19, 2003. The Town reported violations of copper from April through July 2003. The Town also reported violations of TSS and NH3-N effluent limits from January through April 2003. On July 9, 2003, the Department issued an NOV for the effluent limit violations and the failure to meet the permit compliance schedule.
4. On July 22, 2003, the Department met with the Town to discuss the unauthorized discharge, the effluent violations and the failure to meet the permit compliance schedule.

### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders the Town of Warsaw, and the Town of Warsaw agrees, to perform the actions described in Appendix A. In addition, the Town of Warsaw agrees to comply with the interim effluent limits specified in Appendix B which are attached hereto and incorporated herein by reference. In addition, the Board orders the Town of Warsaw, and the Town of Warsaw

voluntarily agrees, to pay a civil charge of \$7,000 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. The payment shall note that it is being made pursuant to this order and shall note the Federal Identification Number for the Town of Warsaw. Payment shall be by check, certified check, money order, or cashier's check payable to ATreasurer of Virginia" and sent to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of the Town of Warsaw, for good cause shown by the Town of Warsaw, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to the Town of Warsaw by DEQ on July 9, 2003 and the Warning letter issued to the Town of Warsaw on August 7, 2002. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, the Town of Warsaw admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. The Town of Warsaw consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The Town of Warsaw declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by the Town of Warsaw to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional

orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The Town of Warsaw shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The Town of Warsaw shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Town of Warsaw shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the Town of Warsaw intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and the Town of Warsaw. Notwithstanding the foregoing, the Town of Warsaw agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Town of Warsaw petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

- b. The Director or Board terminates the Order in his or its sole discretion upon 30 days notice to the Town of Warsaw.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve the Town of Warsaw from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, the Town of Warsaw voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

Town of Warsaw voluntarily agrees to the issuance of this Order.

By: \_\_\_\_\_

Date: \_\_\_\_\_

Commonwealth of Virginia

City/County of \_\_\_\_\_

The foregoing document was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by \_\_\_\_\_, who is  
(name)

\_\_\_\_\_ of the Town of Warsaw, on behalf of the Town.  
(title)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

## APPENDIX A

The Town of Warsaw shall:

1. **On or before October 1, 2004**, submit to the Department for review and approval a engineering report with plans and specifications for the construction of an upgrade that will allow the Facility to consistently comply with copper VPDES Permit limits.
2. **On or before January 1, 2005**, have financing for the project secured and award a bid to a contractor for upgrade of the Facility.
3. **On or before February 1, 2005**, begin construction on the Department approved upgrade.
4. **On or before September 1, 2006**, complete construction on the Department approved upgrade.
5. **On or before November 1, 2006**, obtain a Certificate to Operate the upgraded Facility and comply with final effluent limitations for copper.
6. Operate the Facility in a manner that ensures that it produces the best quality effluent of which it is capable during the upgrade of the Facility.

**Pursuant to this Order** communications regarding this Order, and its requirements shall be addressed as follows:

Frank Lupini  
Department of Environmental Quality  
Piedmont Regional Office  
4949-A Cox Road  
Glen Allen, Virginia 23060

The Town of Warsaw shall confirm, in writing, completion of the Order requirements to the above address **within five (5) days of completion**.

## APPENDIX B

### Interim TSS, Ammonia, Copper, and Zinc limitations

During the period beginning with the effective date of this Order and lasting until November 1, 2006, discharges shall be limited and monitored by the Town in accordance with VPDES Permit VA0026891, except as specified below:

	Concentration Monthly Average	Quantity Monthly Average
TSS	27 mg/L	31 kg/d
Ammonia	15 mg/L	17 kg/d
Copper	0.02 mg/L	0.023 kg/d
Zinc	0.04 mg/L	0.045 kg/d